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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------------------|------------------|
| 10/787,181 | 02/27/2004 | Satoshi Tsunakawa | 249398US3 | 4593 |
| 22850 | 7590 | 04/27/2005 | | |
| OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314 | | | EXAMINER JOHNSON III, HENRY M | |
| | | | ART UNIT 3739 | PAPER NUMBER |

DATE MAILED: 04/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/787,181

Applicant(s)

TSUNAKAWA ET AL.

Examiner

Henry M Johnson, III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 032604 052804.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,824,557 to Tone et al. in view of U.S. Patent 6,436,128 to Usui. Tone et al. teach a steam generator composed of a steam-generating composition containing a metal powder, a salt, and water, and an adhesive layer (interpreted as tacky gel) on the surface which is to be applied to the skin. The steam-generating composition discharges steam as the metal powder is oxidized. In the steam generation portion, the steam-generating composition is held or sandwiched in a support and the steam generation portion itself is formed into a sheet (abstract). The skin area may be a face (Col. 1, line 8). Tone et al. discloses the particle size of the metal (iron) may be varied to control the temperature (Col. 9, lines 27-34). Tone et al. disclose mixing an iron powder (RKH; manufactured by Dowa Iron Powder Co., Ltd.) 50 wt. %, table salt 3 wt. %, water 27 wt. %, active carbon 5 wt. %, and vermiculite (manufactured by Shinsei Micron Co., Ltd.) 15

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wt. % to form the composition. These proportions meet those of applicant's claim 3. Tone et al. do not disclose parameters of the heat rise. Usui discloses a composition for use in a sealed sheet for heating using an exothermic reaction of iron powder, carbon, salt, filler and water (Col. 31, lines 32-34). The compound reaches 38°C in 1-2 minutes and maintains the temperature for up to 9 hours (Col. 33, lines 3-5). Usui teaches a water-steam permeable layer, implying the production of steam, with a permeability of from 100-1000 g/m²·24hr. (Col 19, lines 40-45). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the composition of Usui in the device of Tone et al. to achieve the desired temperature within a desired time as Usui has disclosed that the particle size controls that operational parameter and Tone et al. has actually achieved the rapid rise required by the applicant. Both Usui and Tone et al. teach a flexible sheet that is clearly capable of being formed to a face.

Regarding claim 5, how the sheet is applied is intended use of the device.

Regarding claims 7 and 8, attachment of devices to body shapes is well known and obvious. U.S. Patent Application Publication US 2004/0138729 to Ladmer, U.S. Patent 6,261,314 to Rich, U.S. Patent 5,938,693 to Carminucci and U.S. Patent 4,753,241 to Brannigan et al. all teach devices for attachment to a human face with various straps, hooks or ties.

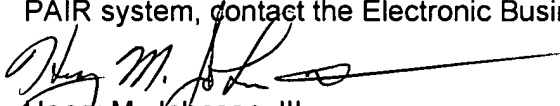
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry M Johnson, III whose telephone number is (571) 272-4768. The examiner can normally be reached on Monday through Friday from 6:00 AM to 3:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Henry M. Johnson, III
Primary Examiner
Art Unit 3739